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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

RASHEIDI BROWN,

Defendant and Appellant.

B257346

(Los Angeles County  
Super. Ct. No. BA387356)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
William N. Sterling, Judge. Affirmed as Modified.

Michelle T. Livecchi-Raufi, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On October 19, 2011, defendant Rasheidi Brown pled no contest to sale of a controlled substance (Health & Saf. Code, § 11352, subd. (a)), and admitted one prior conviction under Health and Safety Code section 11370.2 and three prior prison terms (Pen. Code, § 667.5, subd. (b)). The trial court placed him on probation for 36 months under various terms and conditions, including that he serve 153 days in custody (with credit for 153 days), that he complete a one-year residential drug treatment program, that he stay away from places where narcotics users congregate, and that he obey all laws. As part of the disposition, the trial court agreed to strike all defendant's prior convictions but the record does not reflect that it did so.

On November 14, 2013, defendant's probation was revoked following his arrest for sale of cocaine base. That arrest resulted in a felony charge of violating Health and Safety Code section 11352, subdivision (a) which was tried to a jury, concurrently with the court considering the same evidence to determine whether defendant was in violation of probation. On May 8, 2014, the jury acquitted defendant of the charge. However, in his testimony at trial, defendant admitted that on the day of his arrest, he purchased rock cocaine at a location he frequented for that purpose and got high, though he denied selling or offering to sell drugs. The trial court concluded that the evidence at trial, including defendant's testimony, proved by a preponderance of the evidence that defendant was in violation of probation, in particular, the conditions requiring him to obey all laws and to stay away from places where narcotics users congregate. The court therefore formally revoked probation and sentenced defendant to the middle term of four years in state prison. This appeal followed.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, defendant's counsel on appeal filed a brief requesting that we review the entire record to determine if there are any arguable issues. Defendant was advised of his right to file a supplemental

brief, but no such brief has been filed. We have reviewed the entire record, and note only one error: the record does not reflect that the trial court formally struck defendant's prior convictions, as it agreed to do in exchange for defendant's no contest plea. Therefore, we order defendant's prior conviction under Health and Safety Code section 11370.2 and three prior prison terms (Pen. Code, § 667.5, subd. (b)) stricken. The clerk of the superior court shall prepare an amended abstract of judgment so reflecting and transmit it to the Department of Corrections and Rehabilitation. We conclude, based on our independent review, that no other arguable issues exist.

### **DISPOSITION**

Defendant's prior conviction under Health and Safety Code section 11370.2 and three prior prison terms (Pen. Code, § 667.5, subd. (b)) are stricken. The clerk of the superior court shall prepare an amended abstract of judgment so reflecting and transmit it to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

COLLINS, J.